

### **§ 736.36**

conduct a warehouse is granted under the act the warehouseman shall file with the Department a copy of his rules and a schedule of charges to be made by him if licensed. Before making any change in such rules or schedule of charges he shall file with the Department a statement in writing showing the proposed change and the reasons therefor. Each warehouseman shall keep exposed conspicuously in the place prescribed by § 736.8, and at such other place, accessible to the public, as the Service may from time to time designate, a copy of his current rules and schedule of charges.

#### **§ 736.36 Business hours.**

(a) Each warehouse shall be kept open for the purpose of receiving grain for storage and delivering grain out of storage every business day for a period of not less than six hours between the hours of 8 a.m. and 6 p.m. except as provided in paragraph (b) of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his licensed warehouse a notice showing the hours during which the warehouse will be kept open, except when such warehouse is kept open continuously from 8 a.m. to 6 p.m.

(b) In case the warehouse is not to be kept open as required by paragraph (a) of this section, the notice posted as prescribed in that paragraph shall state the period during which the warehouse is to be closed and the name of an accessible person, with the address where he is to be found, and the telephone number, if any, who shall be authorized to deliver grain stored in such warehouse, upon lawful demand by the depositor thereof or the holder of the receipt therefor, as the case may be.

#### **§ 736.37 System of accounts.**

Each warehouseman shall have and maintain a system of accounts, approved for the purpose by the Service. This shall include a stock record showing for each lot of grain received for storage its net weight including dockage, if any, its grade when its grade is required to be, or is, ascertained, its location, the dates received for and delivered out of storage, the receipts issued and canceled, also a separate record for

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each depositor of his grain, which shall include a detailed record of all moneys received and disbursed and of all insurance policies taken out and canceled on request of each depositor. The warehouseman shall further keep a general insurance account showing the policy number, issuing company, amount, binding, and expiration dates of all fire, tornado, and other insurance policies taken out by him and in each instance show the property covered by such policies. These records shall also show similar information concerning any nonstorage grain handled through the warehouse. Such records shall be retained by the warehouseman for a period of six years after December 31 of the year in which created, and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the Act.

(Approved by the Office of Management and Budget under control number 0560-0120)

[29 FR 15730, Nov. 24, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

#### **§ 736.38 Reports required.**

(a) Each warehouseman shall, from time to time, if requested by the Service, make such reports, on forms prescribed and furnished for the purpose by the Service, concerning the condition, contents, operation, and business of the warehouse.

(b) Each warehouseman shall keep on file, as a part of the records of the warehouse, for a period of three years after December 31 of the year in which submitted, an exact copy of each report submitted by such warehouseman under the regulations in this part.

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[29 FR 15730, Nov. 24, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

#### **§ 736.39 Inspections; examination of warehouse.**

Each warehouseman shall permit any officer or agent of the Department, authorized by the Secretary, or his designated representative, for the purpose,

to enter and inspect or examine on any business day during the usual hours of business, any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof and such warehouseman shall furnish such officer or agent the assistance necessary to enable him to make any inspection or examination under this section.

**§ 736.40 Care of grain in licensed warehouses.**

Each warehouseman shall at all times, including any period of suspension of his license, exercise such care in regard to grain in his custody as a reasonably careful owner would exercise under the same circumstances and conditions.

**§ 736.41 Care of other grain and other commodities.**

If, at any time, a warehouseman shall handle or store grain otherwise than as a licensed warehouseman, or shall handle or store any other commodity, he shall so protect the same, and otherwise exercise care with respect to it, as not to endanger the grain in his custody as a warehouseman or impair the insurance thereof or his ability to meet his obligations and perform his duties under the act and the regulations in this part.

**§ 736.42 Excess storage.**

(a) If at any time a warehouseman shall store grain in his warehouse in excess of the capacity for which it is licensed, such warehouseman shall immediately notify the Secretary of such excess storage, the reason therefor, and the location thereof.

(b) A warehouseman who lacks sufficient space and desires to transfer stored grain for which receipts have been issued to another licensed warehouse may do so either by physical movement or by other methods accepted as standard industry practice subject to the following terms and conditions:

(1) The transferring (shipping) warehouseman's accepted rules or schedule of charges must contain notice that the warehouseman may for-

ward grain deposited on a commingled basis under such terms and conditions as the Secretary may prescribe.

(2) For purposes of this section of the regulations a licensed warehouse means a warehouse operated by a warehouseman who holds an unsuspended, unrevoked license under the U.S. Warehouse Act for grain, or a warehouse operated by a warehouseman who holds an effective warehouse license for the public storage of grain and/or rice issued by a State that has financial, bonding and examination requirements for the benefit of all depositors.

(3) Non-negotiable warehouse receipts shall be obtained promptly by the shipping warehouseman from the receiving warehouseman for all transferred grain. Such receipts shall have printed or stamped in large bold or outline letters diagonally across the face and covering the face from corner to corner the words "NOT NEGOTIABLE". Receipts are not valid for collateral purposes. They shall be retained by the shipping warehouseman to be presented to and used by Department examiners in lieu of an on-site inventory. The grain covered by such receipts is not the property of either the receiving or shipping warehouseman but held in trust by both solely for the benefit of the depositors whose bailed grain was transferred individually or collectively and the depositor or the depositor's transferee retains title thereto.

(4) The shipping warehouseman's bond shall be increased to consider the addition of the transferred grain to the licensed capacity of the warehouse with the net asset requirements based on the total of the licensed capacity and the forwarded grain. The bond amount need not be more than \$500,000 unless necessary to cover a deficiency in net assets to meet requirements. The receiving warehouseman shall not incur storage obligations that exceed the licensed capacity of his warehouse.

(5) The shipping warehouseman continues to retain storage obligation to the owners of all grain deposited in the warehouse for a storage whether forwarded or retained and is, except as otherwise agreed upon under paragraph